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## AMERICAN ACADEMY *of* ACTUARIES

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Oct. 30, 2010

Actuarial Standards Board  
1850 M St., NW, Suite 300  
Washington, DC 20036

Re: Comments on ASOP 28

Below are comments from the American Academy of Actuaries<sup>1</sup> Health Practice Financial Reporting Committee regarding the June 2010 exposure draft of the proposed revision of Actuarial Standard of Practice No. 28, titled *Statements of Actuarial Opinion Regarding Health Insurance Liabilities*. We begin with our responses to the specific questions asked in the ASB's transmittal memorandum, and then follow with additional comments on aspects of the draft that are of particular concern to us.

### Question 1

In general, we believe that the guidance is sufficiently clear. But additional clarification may be helpful for what the actuary is required to do when applicable law (as mentioned in Section 1.2) is in conflict with the ASOP guidance. There are numerous situations, however, in which the ASOP requires statements or disclosures that are not included in the "prescribed language" in the NAIC Health Annual Statement instructions (purpose of the statement, Section 3.2; stated basis of liability presentation, Section 3.4; items in the scope of the analysis such as date of data, Section 3.5; and disclosures, Section 4.1). We suggest handling this issue by including a section indicating that if the form of actuarial opinion is prescribed by law or regulation, the actuary should consider whether the disclosures referenced in the ASOP are material enough that the actuary should deviate from the prescribed wording and include them in the opinion. As an alternative, the actuary could satisfy the ASOP by including those disclosures in a supporting memorandum. If the intent of the ASB is that the actuary should include those items in the actuarial opinion through using the "additional language" alternative in the health blank instructions, this should be addressed specifically in the ASOP.

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<sup>1</sup> The American Academy of Actuaries ("Academy") is a 17,000-member professional association whose mission is to serve the public on behalf of the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States

#### Question 2

The scope of the standard seems sufficiently clear and appropriate. We have a concern about the exclusion of opinions subject to ASOP No. 6, ASOP No. 22, or ASOP No. 36. Although we appreciate the desire not to have conflicting standards, there is an intersection of opinions covered by these standards for which ASOP No. 28 should be applicable. For example, either a life and health insurance company or a property/casualty insurance company filing an NAIC Health Annual Statement would find the opinion within the scope of ASOP No. 22 or ASOP No. 36 respectively. We do not believe it is appropriate for such an opinion to be exempt from the scope of ASOP No. 28. Likewise, an opinion for debt covenants may combine an employer's pension liability and self-funded health liabilities—but it should not be excluded from scope simply because it includes liabilities subject to ASOP No. 6. Another example arises out of a State of Colorado Division of Insurance requirement that employer liabilities for the health insurer be included in the scope of the health annual statement actuarial opinion to the extent these liabilities are present in the financial statements. According to the proposed scope exclusions, since the opinion would be subject to ASOP No. 6, it would be excluded from the scope of ASOP No. 28, which does not seem appropriate.

#### Question 3

The proposed definition of valuation date is somewhat confusing. Many organizations cut off paid claims in advance of the valuation date to perform timely preparation of financial statements. The definition as written could result in two different valuation dates for the company (the financial statement date and the cutoff date, which is a few days prior). We also remember that in the initial draft of ASOP No. 36 a different valuation date was proposed. We think it is preferable, where possible, to use a consistent definition of "valuation date" in the ASOPs. We therefore recommend that the definition used in ASOP No. 42 be used here as well. (See our additional comment below about asset valuations. If ASOP No. 28 will be revised to address that issue, it may be appropriate to modify the definition here to be, "The date as of which the liability and asset values are determined.")

#### Question 4

The disclosures included in sections 4.1 and 4.2 seem appropriate. Please see our discussion above, however, as to whether these disclosures should be included in an actuarial opinion or in the accompanying memorandum.

#### Question 5

The guidance regarding reliance on the work of others and related disclosures is clear.

#### Question 6

We do not believe additional definitions are necessary. In fact, we have some issues with the limited definition of "Insurer" but note that it was not used throughout the standard. We therefore suggest the definition be deleted. If the definition is not deleted, we believe the term should be changed to "Health Insurer" and the definition should be expanded beyond filing statutory financial statements (this definition, for example, excludes California HMOs regulated by the DMHC and any number of special-purpose organizations providing insurance coverage, including those providing coverage to Medicare or Medicaid enrollees under special exemptions to insurance laws).

#### Question 7

We believe that the expansion of the scope of the standard is clear and appropriate.

In addition to the above, we have the following comments:

The new NAIC Health Annual Statement actuarial opinion instructions require the actuary also to opine on assets that are actuarial items. Therefore, it appears that it would be appropriate to include expanding the scope of ASOP No. 28 to include both assets and liabilities and to include a section that discusses the considerations that should go into determining if an asset or liability is an “actuarial item.”

In the definition of a health insurance liability (Section 2.5), the phrase “an amount recorded” is utilized. In the NAIC Health Annual Statement actuarial opinion instructions, the actuary is required to opine on certain line items even if no amount is recorded. It may be useful to include this specific circumstance as an additional definition or to address it separately.

We believe it would be more clear if the definition of “Qualified Actuary” in Section 2.8 also referred to the Academy’s Statement of Qualifications.

We recommend that the definition of “statement of actuarial opinion” (Section 2.10) be checked for consistency with the definitions used in other ASOPs.

Section 3.7 states “when the actuary is required to opine that the liabilities make good and sufficient provision.” The standard of practice should be based on what the actuary does, not what he or she may be required to do. As written, if the actuary was not required to but said the liabilities were good and sufficient, this clause would not apply. We believe more appropriate language would be: “If the actuary opines that the liabilities are good and sufficient or adequate.”

In Section 3.12 there are references to ASOP No.7 and ASOP No. 22. The references are in different formats (one italicized, one not) and the title for ASOP No.7 is incorrect.

The Academy’s Health Practice Financial Reporting Committee appreciates the opportunity to provide comments on ASOP No.28. If you have any questions regarding our comments, please contact Tim Mahony, the Academy’s state health policy analyst at (202) 223-8196 or at [mahony@actuary.org](mailto:mahony@actuary.org).

Sincerely,

Darrell Knapp, MAAA, FSA  
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Health Practice Financial Reporting Committee  
American Academy of Actuaries